IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

SECOND APPEAL NO. 406 OF 2004

Shri Sahebrao Jiwanta Khatal ... Appellant
(Ori.Plaintiff)

V/s

Uttam Bapurao Khatal
1. Bhagirathi Uttam Khatal & ors. ... Respondents
(Ori. Defendants)

Shri G.S. Godbole for the appellant.

CORAM: P.V. KAKADE, J.

DATED: 11TH OCT., 2004.

P.C.:

1. Heard learned counsel for the appellant.

2. This is an appeal preferred against the judgment and order passed by the Addl. District Judge, Solapur dated 12.12.2001 dismissing the appeal and confirming the order passed by the Civil Judge, Jr.Divn., Barshi, dismissing the plaintiff's suit.

2. The suit was for perpetual injunction restraining the defendants from interfering in possession and cultivation of plaintiff over suit land and taking crops

and recovery of certain amount.

The learned Trial Judge adjudicated the dispute and held that the plaintiff has failed to prove his possession and cultivation and, as such, the suit for injunction simplicitor came to be dismissed. The learned District Judge upheld the findings recorded by the learned Trial Judge and came to the conclusion that the appeal deserves to be dismissed.

3. On perusal of the judgments of both the Courts below, it is found that both the Courts below have rightly concluded that the evidence on record was not sufficient for the plaintiff to prove his possession and cultivation in the suit land. The plaintiff’s case was solely based on revenue record which was held to be not sufficient and, therefore, the suit came to be dismissed.

4. It is needless to mention that the scope of Sec.100 of the C.P.C. forbids this Court for entertaining any disputed issue of fact. Moreover, no substantial question of law is seen to be involved in this appeal and both the Courts below is seen to have appreciated the entire evidence in proper perspective.

In the result, the appeal deserves to be dismissed and stands dismissed in limine with no order as to costs.

Consequently, the civil application also stands dismissed.

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